


IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

SEP 14 2015

JULIA C. DUDLEY, CLERK  
BY:   
DEPUTY CLERK

UNITED STATES OF AMERICA

Case No. 7:08-cr-00003-1

v.

MEMORANDUM OPINION

JUNMALL J. BOYD,  
Petitioner.

By: Hon. Michael F. Urbanski  
United States District Judge

Junmall J. Boyd, a federal inmate proceeding pro se, filed a letter (Dkt. No. 60) that the court construes as a motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255 because Petitioner challenges the legality of his sentence imposed under the Armed Career Criminal Act in light of Johnson v. United States, \_\_\_ U.S. \_\_\_, 135 S. Ct. 2551 (2015). Court records indicate that the court already dismissed (Dkt. No. 59) a prior § 2255 motion (Dkt. No. 47). Thus, the construed § 2255 motion is a second or subsequent motion under 28 U.S.C. § 2255(h). Cf. United States v. Hairston, 754 F.3d 258, 262 (4th Cir. 2014).

The court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that a claim in the motion meets certain criteria. See 28 U.S.C. § 2255(h). As Petitioner has not submitted any evidence of having obtained certification from the Court of Appeals to file a second or successive § 2255 motion, the court dismisses the construed § 2255 motion without prejudice as successive. Based upon the court's finding that Petitioner has not made the requisite substantial showing of denial of a constitutional right as required by 28 U.S.C. § 2253(c), a certificate of appealability is denied. Pursuant to Standing Order 2015-5, the Federal Public Defender is appointed to advise Petitioner about pursuing certification from the Court of Appeals.

ENTER: This 14<sup>th</sup> day of September, 2015.



United States District Judge